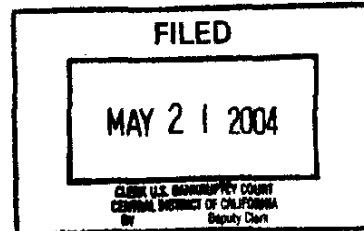


Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number
Christopher A. Minier [Bar No. 190705]
LAW OFFICES OF TODD C. RINGSTAD
2030 Main Street, Suite 1200
Irvine, CA 92614
Tel: (949) 851-7450 Fax: (949) 851-6926

FOR COURT USE ONLY



**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA**

In re:
GMFC, INC.,

CASE NO.:

SA 04-10030 RA

Debtor(s).

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: June 3, 2004

Time: 11:30 a.m.

Location: Courtroom 6C

LC Type of Sale: ☒ Public: ☐ Private: Last date to file objections: May 20, 2004

Description of Property to be Sold: Eight contiguous, undeveloped parcels of real property totaling approximately 4.2 acres, and bounded by Mill Street, Museum Way, Second Street, and the Truckee River, located in Reno, Nevada, commonly known as 355 Mill Street, 44 East Second Street, 16 Museum Drive, Reno, NV 89501

Terms and Conditions of Sale: Property is sold "as is," and "where is," with no warranties or representations.

Proposed Sale Price: \$2,600,000

Overbid Procedure (If Any): Please see attached Notice of Motion for overbid procedures and other important information.

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e-mail address):

Mr. Daryl E. Drake

Daryl E. Drake Commercial Real Estate Services

1885 South Arlington Avenue, Suite 207

Reno, Nevada 89509

Tel: (775) 322-4044 Fax: (775) 322-4049

Date: May 20, 2004

January 2004

ORIGINAL

Notice of Sale of Estate Property

F 6004-2

F60042

1 TODD C. RINGSTAD - State Bar #97345
2 CHRISTOPHER A. MINIER - State Bar #190705
3 **LAW OFFICES OF TODD C. RINGSTAD**
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6 Attorneys for GMFC, Inc.,
7 Debtor and Debtor-in-Possession

8 UNITED STATES BANKRUPTCY COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 SANTA ANA DIVISION

11 In re

12 GMFC, INC.

13 Possession

14 Debtor and
Debtor-in-

Case No. SA 04-10030 RA

Chapter 11 Proceeding

NOTICE OF MOTION BY DEBTOR FOR AN ORDER:
(1) APPROVING SALE OF REAL PROPERTY OUTSIDE OF THE ORDINARY COURSE OF BUSINESS, FREE AND CLEAR OF LIENS, PURSUANT TO 11 U.S.C. § 363(b)(1) AND (f); (2) FOR A DETERMINATION THAT THE SALE WAS CONDUCTED IN GOOD FAITH PURSUANT TO 11 U.S.C. § 363(m); (3) APPROVING EMPLOYMENT OF, AND PAYMENT OF COMMISSION TO, REAL ESTATE BROKER; (4) APPROVING OVERBID PROCEDURES, INCLUDING BREAKUP FEE; AND (5) AUTHORIZING DISTRIBUTION OF SALE PROCEEDS

Date: June 3, 2004
Time: 11:30 a.m.
Place: Courtroom 6C
411 West Fourth Street
Santa Ana, CA 92614

1 **TO THE HONORABLE ROBERT W. ALBERTS, UNITED STATES**
2 **BANKRUPTCY JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, AND**
3 **OTHER INTERESTED PARTIES:**

4 **PLEASE TAKE NOTICE** that on June 3, 2004, at 11:30 a.m., in Courtroom 6C of
5 the above-entitled Court, located at 411 West Fourth Street, Santa Ana, California 92701,
6 before the Honorable Robert W. Alberts, United States Bankruptcy Judge, GMFC, Inc.,
7 debtor and debtor-in-possession in the above-entitled Chapter 11 case (hereafter
8 "Debtor"), will, and hereby does, move the Court for an Order:

9 (1) Pursuant to 11 U.S.C. § 363(b)(1) and (f), authorizing the sale of eight
10 contiguous, undeveloped parcels of real property totaling approximately 4.2 acres,
11 and bounded by Mill Street, Museum Way, Second Street, and the Truckee River,
12 located in Reno, Nevada, commonly known as 355 Mill Street, Reno, NV 89501,
13 44 East Second Street, Reno, NV 89501, 16 Museum Drive, Reno, NV 89501, and
14 adjoining parcels (hereafter the "Property"), free and clear of liens, interests and
15 encumbrances, all of which would transfer to and attach to the net sale proceeds,
16 outside the ordinary course of business, to Evergreen Capital, LLC, a Nevada
17 limited Liability Company (hereafter the "Buyer"), subject to overbids, for \$2.6
18 Million¹, pursuant to the terms specified in, and by approving the Purchase
19 Agreement and Escrow Instructions attached hereto as Exhibit "1" (hereafter the
20 "Agreement");

21 (2) Approving overbid procedures for the sale of the Property including, if
22 the Property is ultimately sold to a successful overbidder, payment of a breakup

23
24 ¹ Evergreen Capital, LLC, the proposed buyer, holds a first Deed of Trust on the Property securing Debtor's
25 repayment of the principal amount of \$1,312,000 owed on a promissory note dated August 28, 2002.
26 Accordingly, if the Property is sold to Evergreen Capital, LLC, Debtor will be giving said Buyer credit towards
27 the purchase price in the amount of approximately \$1,312,000 (plus accrued interest and attorney's fees
28 through the date of closing). Alternatively, if the Property is sold to an overbidder, Debtor's above-described
obligation to Evergreen Capital, LLC, will be satisfied in full through payment of said amount at the close of
escrow.

1 fee of: (A) \$30,000 to the proposed Buyer if, the Buyer has a soils report prepared
2 on the Property or, alternatively, (B) \$15,000 if the Buyer does not have such a
3 report prepared, with either such breakup fee being payable at the close of escrow;

4 (3) Reciting that the parties to the sale of the Property are entitled to the
5 benefit and protection of 11 U.S.C. § 363(m);

6 (4) Authorizing the Debtor's employment of Drake Realty, Inc., dba Daryl E.
7 Drake Commercial Real Estate Services (hereafter "Drake Commercial"), and
8 approving the payment of real estate brokers' commission(s), as set forth below, at
9 the close of escrow;

10 (5) Authorizing the disbursement of sale proceeds through the escrow,
11 including payment of the following:

12 (A) Approving the application for allowance and payment of
13 commission of Debtor's real estate broker, Drake Commercial, which is
14 included herein, and authorizing the payment of total commissions of: (i)
15 \$75,000 (approximately 2.8% of the proposed \$2.6 Million sale price) at the
16 close of escrow, to Drake Commercial if the Property is sold to the proposed
17 Buyer; (ii) 3.0% of the Property's gross sale price to Drake Commercial, at
18 the close of escrow, if the Property is ultimately sold to a successful
19 overbidder that is not represented; (iii) total commissions of 5% of the
20 Property's gross sale price, to be split equally between Drake Commercial
21 and any broker for a successful overbidder; or (iv) 3.0% of the Property's
22 gross sale price if Drake Commercial represents both the Debtor and a
23 successful overbidder;

24 (B) Normal "closing costs," which may include things such as
25 Debtor's payment of its share of escrow charges, title insurance, recording
26 fees, documentary transfer taxes, real property taxes, utilities, association
27 dues and charges, fees for obtaining beneficiary's demands from secured
28 creditors, and other normal and customary charges, pro-rations, costs and

1 fees, including, but not limited to payment for a hazard zone control report,
2 and title insurance policy;

3 (C) If, and only if, the Property is ultimately sold to a party other than
4 the proposed Buyer, Evergreen Capital, LLC, disbursement of
5 approximately \$1,312,000 (plus accrued interest and attorney's fees through
6 the date of closing), to Evergreen Capital, LLC, on account of its first Deed
7 of Trust on the Property, plus payment of the aforementioned \$30,000 or
8 \$15,000 breakup fee to Evergreen Capital, LLC²; and

9 (D) Payment of the remaining sale proceeds to Debtor.

10 (6) In the alternative, authorizing sale of the Property to a third-party that
11 submits a higher and better bid above the requested breakup fee, taking into
12 consideration both the purchase price, the terms of sale, and the desirability of
13 closing escrow quickly.

14 This Motion is made on the grounds that the above-described Agreement, sale,
15 Order of Court, payments, and related matters are in the best interest of the estate and all
16 interested parties.

17 **IF YOU DO NOT OPPOSE THE MOTION,** you need take no further action.

18 **IF YOU WISH TO OPPOSE THE MOTION,** pursuant to Local Bankruptcy Rule
19 9013-1(a)(7), your objections must be in writing and must be filed with the Bankruptcy
20 Court Clerk (with a duplicate copy) at the United States Courthouse, located at 411 West
21 Fourth Street, Suite 2030, Santa Ana, California 92701, and must be served upon
22 Debtor's counsel, Todd C. Ringstad, at the Law Offices of Todd C. Ringstad, located at

23 _____
24 ² The \$15,000 or \$30,000 breakup fee proposed to be paid if an overbidder is ultimately selected by the
25 Court as the purchaser of the Property is to compensate Evergreen Capital, LLC, for the expenses it
26 incurred in investigating the Property and its condition, including having a soils report prepared. If payment
27 of the proposed breakup fee is authorized by the Court, and if Evergreen Capital, LLC, has a soils report
28 prepared, and if the Court ultimately authorized the sale of the Property to a successful overbidder,
Evergreen Capital, LLC, has agreed to provide a copy of the soils report it had prepared to the successful
overbidder.

1 2030 Main Street, Suite 1200, Irvine, California, 92614, and on the Office of the United
2 States Trustee, located at 411 West Fourth Street, Suite 9041, Santa Ana, California,
3 92701, not less than fourteen (14) days prior to the scheduled Court hearing.

4 **PLEASE TAKE FURTHER NOTICE** that Local Bankruptcy Rule 9013-1(a)(7)(A)
5 further provides that any opposition is to consist of "(1) A brief, but complete, written
6 statement of all reasons in opposition thereto . . . and answering memorandum of points
7 and authorities, declarations and copies of all photographs and documentary evidence on
8 which the responding party intends to rely"

9 **SUBMISSION OF OVERBIDS**

10 To ensure that the sale of the Property is fair and reasonable, and in order to
11 obtain the highest and best price for the Property, the Debtor proposes that the sale of
12 the Property to the above-described Buyer be subject to overbidding. If you wish to
13 submit a competing bid for the purchase of the Property, you must attend the Court
14 hearing and follow the overbidding procedure set forth below, which Debtor is hereby
15 asking the Court to approve in taking any overbids.

16 a. The Debtor requests that the Court permit any interested parties to
17 bid at the hearing on this motion, with a required initial minimum bid of \$2,635,000
18 (\$35,000 above the currently proposed purchase price of \$2.6 Million). This initial
19 overbid of \$35,000 above the current proposed sale price is necessary due to the
20 \$30,000 breakup fee proposed to be paid to the Buyer if it has a soils report
21 prepared, and if the Property is sold to an overbidder. Each subsequent bid must
22 be in increments of at least \$5,000.00 until the Property is sold to the highest
23 "Qualified Bidder" (as defined below) upon terms which are the same or better than
24 those terms proposed for the sale of the Property to Debtor's proposed Buyer, i.e.,
25 terms that are the same or better than those terms contained in Exhibit "1"
26 attached hereto.

27 b. Unless otherwise authorized by the Court, only "Qualified Bidders"
28 may submit an overbid at the hearing on this Motion. A "Qualified Bidder" is one

1 who, at or before the hearing on this Motion, furnishes to Debtor's undersigned
2 counsel, or to Drake Commercial, any and all of the bidders:

3 (i) Year to date corporate and/or personal income statement and
4 balance sheets;

5 (ii) 2003, 2002, and 2001 corporate and/or personal federal and state
6 tax returns;

7 (iii) Proof of ability to provide a down payment of at least \$270,000 if
8 the bidder will be using SBA financing, or a down payment of at least
9 \$800,000 if the bidder will be using conventional financing (or other
10 sufficient proof of the bidder's ability to pay any necessary down payment
11 and / or the Property's purchase price);

12 (iv) Preliminary loan approval from a lender if financing is to be used
13 to pay any part of the Property's purchase price; and

14 (v) A brief description of the bidder's business and proposed use for
15 the Property.

16 c. At or before the hearing on this Motion, any overbidder must present
17 to Debtor's counsel an initial down payment of at least \$100,000 in cash or
18 certified funds (payable to "GMFC, Inc."), with \$35,000 of this down payment
19 becoming non-refundable immediately upon the Court choosing the bidder as the
20 successful purchaser of the Property, and the additional \$65,000 becoming non-
21 refundable upon the expiration of a 30 day contingency period. Any overbidder
22 that furnishes such a \$100,000 initial down payment will have these funds
23 immediately returned if not chosen by the Court as the ultimate purchaser.

24 d. Any successful overbidder chosen as the purchaser of the Property
25 must close escrow within 60 days of the date of the hearing on this motion, or the
26 Debtor may consummate the sale with the next highest bidder.

27 If you would like more information about the Property, or would like to view the
28 Property, contact the Debtor's real estate broker, Mr. Daryl E. Drake, Daryl E. Drake

Commercial Real Estate Services, 1885 South Arlington Avenue, Suite 207, Reno,
Nevada 89509, telephone (775) 322-4044, facsimile (775) 322-4049.

Wherefore, the Debtor respectfully requests that the Court enter an Order approving the Agreement for the Debtor's sale of the Property, authorizing the sale as provided therein, approving the proposed overbid procedures, reciting that the parties to the sale of the Property are entitled to the benefit and protection of 11 U.S.C. § 363(m), authorizing and approving Debtor's employment of a real estate broker and payment of real estate broker's' / agents' commissions, authorizing the payments and disbursements through escrow as provided herein, and granting the other relief set forth above.

LAW OFFICES OF TODD C. RINGSTAD

Date: May 20, 2004

By:

Todd C. Ringstad
Attorneys for GMFC, Inc.,
Debtor and Debtor-in Possession

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 2030 Main Street, Suite 1200, Irvine, California 92614.

On May 20, 2004, I served the foregoing document described as **NOTICE OF SALE OF ESTATE PROPERTY** on the interested parties in this action by placing the true copies thereof enclosed in sealed envelopes addressed as follows or as otherwise indicated:

SEE ATTACHED SERVICE LIST

(xx) I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U. S. postal service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

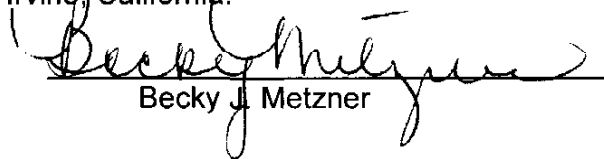
() By personal service, I caused such envelope to be delivered by hand to the above *addressee(s).

() By overnight courier, I caused the above-referenced document(s) to be delivered to an overnight courier service (Federal Express), for delivery to the above **addressee(s).

() By facsimile machine I caused the above-referenced document(s) to be transmitted to the *above-named person(s) at the above telecopier numbers .

I declare that I am employed in the office of a member of the bar of this court at whose direction this filing and declaration was made.

Executed on May 20, 2004, at Irvine, California.


Becky J. Metzner